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REMARKS

This paper is responsive to the Non-Final Office Action dated September 4, 2004. Claims 1-49 were examined. Claims 9, 24, and 44 have been canceled.

INTERVIEW SUMMARY

Applicant thanks Examiner for his participation in a telephone interview on January 14, 2005 with David O'Brien and Kimberley Elcess, on behalf of Applicant. Based on the tenor of the discussion, it appears that all current grounds for rejection will have been addressed in this response; however, no formal agreement was reached.

More specifically, Examiner's rejections of pending claims under 35 U.S.C. §112, §101, §102, and §103, and the judicially created doctrine of obviousness-type double-patenting were discussed with reference to U.S. Patent No. 5,454,652 issued to Huellemeier et al., U.S. Patent No. 6,234,961 issued to Gray, and U.S. Patent No. 5,613,786 issued to Howell. Substantive issues discussed are detailed in the remarks that follow.

*Claim Rejections Under 35 U.S.C. §112*

Claims 2, 3, 48, and 49 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Examiner objects to language in claims 2 and 48 directed to the lever being positioned in a recess. He further states that in view of the drawings and specification, it does not appear that the lever is ever positioned "in" the recess.

Applicant respectfully draws examiner's attention to Figure 1 of the drawings, showing handle 100 positioned within recess or indentation 110, corresponding to the locked position. The dashed line 101' shows handle 100 positioned out of recess or indentation 110, corresponding to an unlocked position. The line of recess or indentation 110 continues the full length of handle 100, indicating that the handle is at rest within recess 110 in the locked position. The handle 100 may be flush with the top surface of the keyboard segment 2

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containing recess or indentation 110, or it may protrude above it, thus fitting at least partially within the recess. The distal end of indentation 110 may have a half-moon shape to allow easier access to, and pivoting of, the handle 100 by a user.

Paragraphs of the specification describing the position of handle 100 when in unlocked position 101' have been amended to correct a typographical error to further clarify the situation.

Applicant therefore submits that the language of claims 2 and 48, as currently amended, directed to the lever being positioned in a recess is definite in that it particularly points out and distinctly claims the subject matter which applicant regards as the invention. In light of this Applicant respectfully requests that Examiner reconsider and withdraw his rejection of claims 2 and 48 under Section 112. Applicant further submits that claims 3 and 49, being dependent on allowable claims 2 and 48, respectively, are themselves allowable, and requests that Examiner reconsider and withdraw his rejection of claims 3 and 49 under Section 112.

Double Patenting-Same Invention

Claims 9 and 24 are rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1 and 2 of Goldstein '316.

Claims 9 and 24 have been canceled.

Double Patenting-Obviousness Type

Claims 1-8, 10-23 and 25-47 all stand rejected under the judicially created doctrine of obviousness-type double-patenting as being unpatentable over claims of U.S. Patent No. 6,641,316 issued to Goldstein, et al. (hereinafter "Goldstein '316"). In particular, claims 1 and 8 are rejected over claim 1 of the Goldstein '316. Claims 2, 3, 8, 10-12, 15-17, 23, 25-27, 30-32 and 41-47 are rejected over claims 1 and 2 of the Goldstein '316 in view of U.S. Patent No. 5,454,652 issued to Huellemeier et al. (hereinafter "Huellemeier"). Claims 4-7, 13, 14, 19-22, 28, 29, and 33-40 are rejected over claims 1 and 2 of the Goldstein '316 in

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view of U.S. Patent No. 6,234,961 issued to Gray (hereinafter "Gray"). Finally, claim 18 is rejected over claims 1 and 2 the Goldstein '316.

Claim 44 has been canceled. Insofar as the remaining claims have been amended, the double patenting rejections of the remaining claims are moot.

Applicant respectfully submits that each of the previously rejected, now amended, independent claims recites subject matter not disclosed or suggested by **any of the claims** of the Goldstein '316. For example, independent claims 1, 18, and 33, as presently amended, each include a limitation relating to a joint including a ball that is retained by a socket in both locked and unlocked positions of a locking mechanism. Such a limitation is not disclosed or suggested by either claim 1 or 2 of the Goldstein '316. Accordingly, Applicant respectfully requests withdrawal of the double patenting rejections as applied to independent claims 1, 18, and 33 and each claim dependent therefrom.

Rejection Under 35 U.S.C. §102

Claims 48 and 49 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,613,786 issued to Howell (hereinafter "Howell").

Claim 48, as presently amended, provides a locking mechanism including a user-positionable lever. The lever as taught by Howell is not accessible to a user for all positions of the keyboard. Figures 3 and 5A of Howell show that with the controller 30 secured in the slot 12g, the lever arm 60 extends under a portion of the base 12, where it is inaccessible to a user when the keyboard is in the position shown, for example, in Figure 1. A similar inaccessibility exists in the alternate embodiment depicted in Figures 6 and 7 with respect to levers 60 and 64.

In view of the above, it is submitted that independent claim 48, as presently amended, is patentable over Howell. It is further submitted that dependent claim 49 is likewise patentable over Howell for being dependent from independent claim 48.

Accordingly, Examiner is respectfully requested to reconsider and withdraw his rejection of claims 48 and 49 under Section 102(b).

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Rejection Under 35 U.S.C. §103

Claims 1-17 and 33-47 are rejected under 35 U.S.C. §103(a) as being unpatentable over Huellemeier in view of Gray.

Claims 9 and 44 have been canceled.

Independent claims 1 and 33, as presently amended, recite limitations relating to a joint including a ball that is retained by a socket in both locked and unlocked positions of a locking mechanism and that is affixed to one of the keyboard segments. Neither Huellemeier nor Gray teaches a ball that

- *is retained by a socket in both locked and unlocked positions of a locking mechanism and*
- *is affixed to one of the keyboard segments.*

Turning first to Huellemeier, ball 65 of Huellemeier is free to move within the lower 66 and upper 67 sockets at least in the unlocked position and each socket 66, 67 is integral with a respective keyboard segment. Leaving aside whether lower socket 66 and upper socket 67, together with shaft 69, constitute a socket that retains a ball in both locked and unlocked positions of a locking mechanism, Applicant notes that ball 65 of Huellemeier is simply not affixed to a keyboard segment. However, if it were affixed to a keyboard segment, it would necessarily be affixed either to one of the sockets 66, 67 or through arcuate slots 68, 80. Either arrangement necessarily defeats the operation of Huellemeier's joint in that it would necessarily result in the loss of freedom of motion in one of the two planes defined by slots 68 and 80. Accordingly, such a modification to Huellemeier is not only inconsistent with Huellemeier, but destroys its operation. Such an operation defeating modification is not obvious.

Turning next to Gray, Gray teaches a ball and socket joint that is advantageous because it can be easily assembled and separated. When the ball member 12 is not fixed in position, it is rotatable within the socket member 14, and may be rotated into the position of FIG. 2 of Gray where it is easily removable from the socket member 14 and thus is *not*

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*retained by the socket in the unlocked position of the locking mechanism* of Gray. For this reason alone, Gray does not disclose or suggest the claimed subject matter.

Now turning to the combination of Huellemeier and Gray, it is important to note that a proper obviousness analysis may not simply amass an inventory of features of distinct devices or configurations that are themselves incompatible or inconsistent and deem the feature list to be obvious. Instead, it is the structures and configurations disclosed in a set of references that must be susceptible to combination. In the present case, it is not possible to introduce Gray's ball into Huellemeier's socket. Therefore, even assuming *arguendo* that Gray's ball is affixed to something, it cannot be introduced into Huellemeier's socket and maintain any semblance of pivot operation. Accordingly, it would not be obvious to combine a portion of Gray's structure with a portion of Huellemeier's structure. Without conceding the propriety of any Huellemeier-Gray combination, Applicant notes that the only conceivable combination would be to modify Huellemeier to introduce Gray's ball and socket as a replacement for Huellemeier's joint. Because Gray's socket does not retain its ball in the unlocked position of any locking mechanism, Applicant's claimed combination still does not result.

For at least the foregoing reasons, Applicant submits that it is not proper to combine the teachings of Huellemeier and Gray, but even if one were to combine the teachings of Huellemeier and Gray, the invention as claimed by Applicant in independent claims 1 and 33, as presently amended, does not result. Applicant therefore asserts that independent claims 1 and 33, as presently amended, are patentable over Huellemeier in view of Gray. Applicant further submits that claims 2-8 and 10-17, being dependent on allowable claim 1, and claims 34-43 and 45-47, being dependent on allowable claim 33, are themselves allowable, and requests that Examiner reconsider and withdraw his rejection of claims 1-8, 10-17, and 33-47 under Section 103(a).

The Office's rejection of claims 18-23 and 25-32 relies on additional teachings of Applicant's own prior art patent. In particular, claims 18-23 and 25-32 are rejected under 35 U.S.C. §103(a) as being unpatentable over Huellemeier in view of Gray as applied to claims

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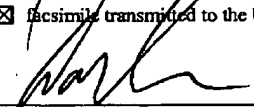
1-17 and 33-47 above, and further in view of U.S. Patent No. 5,543,790 issued to Goldstein (hereinafter "Goldstein '790").

Applicant simply notes, as argued above with respect to claims 1 and 33, that neither Huellemeier nor Gray, taken alone or in combination with any art of record disclose those limitations of claim 18 relating to a joint including a ball that is retained by a socket in both locked and unlocked positions of a locking mechanism and that is affixed to one of the keyboard segments. Goldstein does not add the missing disclosure and the Office has not so alleged.

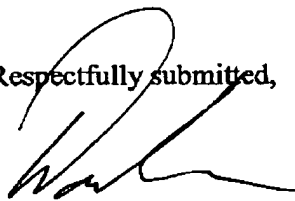
Applicant therefore asserts that independent claim 18, as presently amended, is patentable over Huellemeier in view of Gray and further in view of Goldstein '790. Applicant further submits that claims 19-23 and 25-32, being dependent on allowable claim 18, are themselves allowable, and requests that Examiner reconsider and withdraw his rejection of claims 18-23 and 25-32 under Section 103(a).

Conclusion

In summary, claims 1-8, 10-23, 25-43, and 45-49 are in the case. All claims are believed to be allowable over the art of record, and a Notice of Allowance to that effect is respectfully solicited. Nonetheless, if any issues remain that could be more efficiently handled by telephone, the Examiner is requested to call the undersigned at the number listed below.

<b>CERTIFICATE OF MAILING OR TRANSMISSION</b>	
I hereby certify that, on the date shown below, this correspondence is being	
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 David W. O'Brien	<u>25-Jan-05</u> Date

Respectfully submitted,

  
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